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Attorneys for Plaintiff Power Probe Group, Inc.

And Power Probe TeK, LLC

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

POWER PROBE GROUP, INC. and,
POWER PROBE TEK, LLC,

Plaintiffs,

vs.

INNOVA ELECTRONICS
CORPORATION,

Defendant.

Case No:

**COMPLAINT FOR PATENT
INFRINGEMENT,
INJUNCTIVE RELIEF SOUGHT**

1 Plaintiffs Power Probe Group, Inc. (hereinafter “Power Probe Group”) and Power Probe
2 TeK, LLC (hereinafter “Power Probe TeK,” collectively “Power Probe” or “Plaintiffs”), in support
3 of this Complaint against Defendant Innova Electronics Corporation (hereinafter “Innova
4 Electronics” or “Defendant”) do hereby allege as follows:

5 **NATURE OF THE ACTION**

6 1. Plaintiffs bring this action for patent infringement of United States Patent No.
7 7,184,899 (**Exhibit 1**) pursuant to the Patent Act, 35 U.S.C. § 101, *et seq.*, and include claims for
8 injunctive relief under §§ 154, 281, 283, 285 of that Title.

9 **THE PARTIES**

10 2. Plaintiff Power Probe Group is a Delaware corporation with its registered address
11 at 651 North Broad Street, Suite 206, Middletown, Delaware 19709.

12 3. Plaintiff Power Probe TeK is a Delaware limited liability company with its
13 registered address at 1209 Orange Street, Wilmington, Delaware 19801.

14 4. Power Probe is a family of affiliated companies dedicated to the creation of
15 innovative, easy to use diagnostic equipment for the automotive industry. Power Probe strives to
16 meet the increasingly complex needs of today’s automotive technician.

17 5. Power Probe is a leader in providing electrical circuit testers to the automotive
18 industry. Power Probe’s products provide users with a multitude of testers at their fingertips.

19 6. Power Probe’s products are designed in the United States and have been
20 manufactured in the United States as well as in other countries.

21 7. On information and belief, Defendant Innova Electronics Corporation is a Nevada
22 corporation with a registered address at 3773 Howard Hughes Parkway, Suite 500S, Las Vegas,
23 Nevada 89169. The listed address for Defendant’s officers is 375 North Stephanie Street, Suite
24 1411, Henderson, Nevada 89014. **Exhibit 2.**

FACTUAL BACKGROUND AND GENERAL ALLEGATIONS

The '899 Patent

14. Power Probe Group, as owner of the '899 Patent, and Power Probe TeK, as exclusive licensee, hold all title to, interest in, and have standing to sue for infringement—including past infringement—of United State Patent No. 7,184,899 (hereinafter “the '899 Patent” or “Patent-in-Suit”) entitled “Energizable Electrical Test Device For Measuring Current And Resistance Of An Electrical Circuit,” which issued on February 27, 2007. **Exhibit 1**.

15. The '899 Patent has one named inventor, Randy Cruz. Mr. Cruz invented a new and useful energizable electrical test device for measuring the current and resistance of an electrical circuit and filed a United States application, Application No. 11/029,595, directed thereto, on January 5, 2005.

16. The '899 Patent generally relates to an electrical test device adapted to apply power to and perform a plurality of measurements upon an electrical system.

17. The '899 Patent describes various needs in the prior art including but not limited to (1) the need in the art for an electrical test device that is capable of providing power to an electrical system in order to test such electrical system in the active or powered state; (2) the need in the art for an electrical test device that combines other test features such as logic probe diagnostic testing into a single unit; (3) the need in the art for an electrical test device capable of combining key measurement functions into a single instrument in order to the accelerate diagnosis of electrical problems; and (4) the need in the art for an electrical test device that is hand held, and that is easy to use and which contains a minimal number of parts and is of low cost.

18. The Patent Office issued the '899 Patent as shown in **Exhibit 1**, with twenty-seven (27) claims.

19. Exemplary Independent Claim 1 of the '899 Patent is directed to:

1 An electrical test device having multimeter functionality and being adapted to
2 provide current sourcing to an electrical system for selective measurement of a plurality of
3 parameters thereof in at least one of powered and unpowered states, the electrical test
4 device comprising:

5 a conductive probe element configured to be placed into contact with the electrical
6 system and provide an input signal thereto;

7 a power supply interconnected between an external power source and the probe
8 element;

9 a processor electrically connected to the probe element and configured to
10 manipulate the input signal provided to the electrical system and receive an output signal
11 in response to the input signal, the output signal being representative of at least one of the
12 parameters of the electrical system; and

13 a display device electrically connected to the processor and configured to display a
14 reading of the output signal, the reading being representative of the parameter;

15 wherein the electrical test device is configured to allow for selective powering of
16 the electrical system upon energization of the probe element during measurement of the
17 parameters.

18 20. The '899 Patent was originally assigned to Power Probe, Inc., and was subsequently
19 assigned to Power Probe Group. **Exhibit 6.**

20 21. The First, Second and Third Maintenance Fees for the '899 Patent have been paid.
21 **Exhibit 7.**

22 22. The '899 Patent is valid and enforceable.

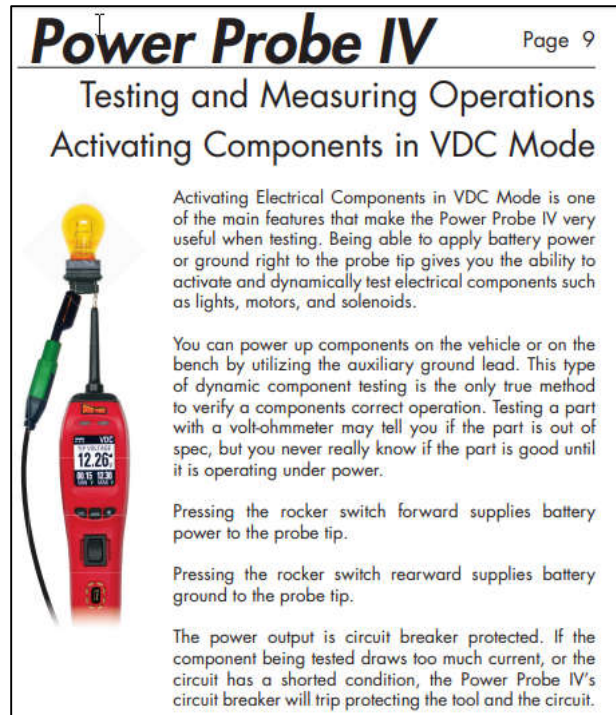
The Power Probe Products

23. Through Power Probe TeK, Power Probe distributes a variety of electrical system test devices including the ‘Power Probe III,’ ‘Power Probe 3EZ,’ ‘Power Probe IV,’ ‘The Hook,’ and ‘The Maestro’ (collectively the “Representative Power Probe Products”). Each of the Representative Power Probe Products has the “capability of applying battery-supplied voltage or ground,” *e.g.*, Exhibit 8 at 4, 8, 10, 11, and to display voltage and continuity; *see also* Exhibit 9 through Exhibit 13.

24. Power Probe marks its products in accordance with 35 U.S.C. § 287. For instance, as shown below, the Power Probe III is marked with the ’899 Patent:



25. By way of example, each of the Representative Power Probe Products comprises an electrical test device having multimeter functionality and being adapted to provide current sourcing to an electrical system for selective measurement of a plurality of parameters thereof (e.g., voltage, continuity) in at least one of the powered and unpowered states. *E.g.*, **Exhibit 12** at 9 (excerpted below); *see also* **Exhibit 9** through **Exhibit 13**.



The Accused Products

26. On information and belief, Defendant has previously and is presently making, using, selling, offering for sale, and/or importing into the United States, including in this district, products that infringe the '899 Patent. These products include certain car electrical system diagnostic tools known as the Innova PowerCheck #5420 (hereinafter the "PowerCheck #5420" or "Accused Product").

27. According to Defendant, "[t]he Innova 5420 PowerCheck attaches to your vehicle's battery or auxiliary power outlet, allowing you to supply voltage or ground to activate and test components, in or around your vehicle." **Exhibit 4**.



28. On information and belief, the Accused Product was launched recently, around November 2020. **Exhibit 14**, **Exhibit 15**.

29. Defendant advertises the Accused Product for sale on its website, <https://www.innova.com/product/detail/5420/PowerCheck>. **Exhibit 4**. Defendant's "Find In Store" webpage also identifies various retail locations at which the Accused Product is allegedly offered for sale, including locations in this district. **Exhibit 5**; see also **Exhibit 18** through **Exhibit 20**. Defendant offers to sell the Accused Product to customers in Nevada and to ship the Accused Product to customers in Nevada. *E.g.*, **Exhibit 21**.

30. In fact, Defendant has already sold the Accused Product to at least one customer in Nevada and therefore shipped the Accused Product into this District. *E.g.*, **Exhibit 23**.

Irreparable Harm to Power Probe

31. Defendant's conduct has already caused irreparable harm to Power Probe and will continue to cause further irreparable harm unless Defendant is enjoined from further acts of infringement.

32. In light of the exclusivity afforded to it by virtue of the '899 Patent, the Representative Power Probe Products have faced little to no competition in recent years, allowing Power Probe to focus its attention on improving other features of its business such as procurement, customer service, marketing, as well as ramping up its research and development efforts with a goal to accelerate the launch of future iterations of its products.

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1 33. In furtherance of its efforts to retain exclusivity and to focus on the aforementioned
2 activities, Power Probe has never licensed the '899 Patent to any non-Power Probe person or entity,
3 let alone to a direct competitor. Power Probe has continuously demonstrated its intent to retain
4 exclusivity through the life of the '899 Patent.

5 34. The recent disruption caused by Defendant—an unlawful market entrant and
6 participant—threatens to cause an unquantifiable and irreversible amount of harm to Power
7 Probe's market share as well as to the quality and speed-to-market of its future products.

8 35. Power Probe and Defendant are direct competitors and compete for the same
9 customers (*e.g.*, automobile owners, mechanics) in the same geographic markets, including in this
10 District, in what is essentially now a two-player market following Defendant's unlawful entrance
11 into this market. Moreover, both the Representative Power Probe Products and the Accused
12 Product are offered for sale through the same distribution channels and even through the same
13 retail stores (*e.g.*, AutoZone®, O'Reilly Auto Parts®, and NAPA®).

14 36. Under the patent system, Power Probe is entitled to exclusivity through the life of
15 the '899 Patent; its business plan is predicated on this exclusivity. Any further disruption from
16 Power Probe's current operations in order to distinguish itself from and otherwise compete with
17 Defendant will cause further irreparable harm to Power Probe.

18 37. Defendant's unlawful entry into the market further threatens to cause irreparable
19 harm to Power Probe's reputation and goodwill, as well as create irreversible price erosion—the
20 Accused Product sells for significantly less than the Representative Power Probe Products. *E.g.*,
21 *compare* **Exhibit 22** (Power Probe III, \$142.95), with **Exhibit 4** (PowerCheck #5420, \$79.99).

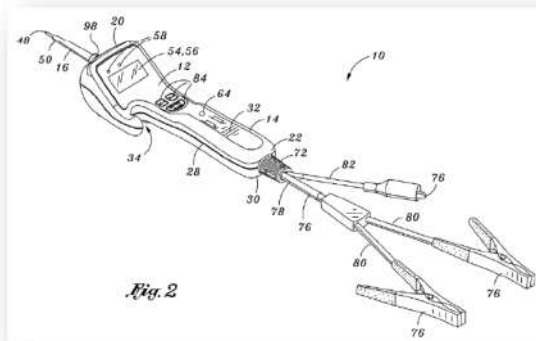
22 38. There is no commercially acceptable non-infringing alternative to the Accused
23 Product.

24 ///

COUNT I –INFRINGEMENT OF THE '899 PATENT***35 U.S.C. §271***

39. Plaintiff hereby incorporates paragraphs 1 - 38 above as if fully set forth herein.

40. Defendant has directly infringed and continues to directly infringe at least Claims 1, 4-10, 12 and 13 of the '899 Patent through making, using, selling, distributing and/or offering to sell and distribute the Accused Product in the United States.



'899 Patent, Fig. 2



Innova PowerCheck #5420

41. By way of example, the Accused Product comprises an electrical test device having multimeter functionality and being adapted to provide current sourcing to an electrical system for selective measurement of a plurality of parameters thereof in at least one of powered and unpowered states, the electrical test device comprising:

PowerCheck #5420**\$79.99**

The Innova 5420 PowerCheck attaches to your vehicle's battery or auxillary power outlet, allowing you to supply voltage or ground to activate and test components, in or around your vehicle. Test switches, relays, fans, pumps, lighting, and more on passenger and heavy-duty vehicles.

Exhibit 4

- a conductive probe element configured to be placed into contact with the electrical system and provide an input signal thereto (e.g., the Accused Product comprises a conductive “probe”

element, *see* **Exhibit 16**, which may be placed into contact with, *e.g.*, “switches, relays, fans, pumps, lighting, and more on passenger and heavy-duty vehicles,” **Exhibit 4**;



Exhibit 4

- a power supply interconnected between an external power source and the probe element (*e.g.*, the Accused Product comprises a power supply interconnected between “your vehicles battery or auxiliary power outlet” (**Exhibit 4**) and the probe element);
- a processor electrically connected to the probe element and configured to manipulate the input signal provided to the electrical system and receive an output signal in response to the input signal, the output signal being representative of at least one of the parameters of the electrical system (*e.g.*, the Accused Product allows for “Voltage/Ground Check” as well as “Continuity Test,” **Exhibit 16**); and
- a display device electrically connected to the processor and configured to display a reading of the output signal, the reading being representative of the parameter (*e.g.*, the Accused Product comprises a “built-in display” to display, *e.g.*, voltage or continuity (**Exhibit 4**));



Exhibit 4

- wherein the electrical test device is configured to allow for selective powering of the electrical system upon energization of the probe element during measurement of the parameters (*e.g.*,

1 the Accused Product “allow[s] you to supply voltage or ground to activate and test components,
2 in or around your vehicle,” **Exhibit 4**).

3 42. On information and belief, Defendant has used the Accused Product in
4 demonstration of the device, and/or during research, development, design, and/or testing. *E.g.*,
5 **Exhibit 5** (“all Innova products are researched, developed and designed at the company’s
6 headquarters in Irvine, Calif” and “our engineers perform rigorous testing on-site at our state-of-
7 the-art facilities”).

8 43. As a result of Defendant’s patent infringement, Power Probe has suffered and will
9 continue to suffer irreparable harm.

10 44. Defendant’s infringement of the ’899 Patent has injured and continues to injure
11 Power Probe.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs Power Probe Group, Inc. and Power Probe TeK, LLC, by and
14 through the undersigned, hereby respectfully asks the Court to enter judgment against Defendant
15 Innova Electronics Corporation and their respective subsidiaries, affiliates, agents, servants,
16 employees, and all persons in active concert or participation with them, granting the following
17 relief:

18 A. An entry of judgment holding that Defendant has infringed and is infringing the
19 Patent-in-Suit;

20 B. A preliminary injunction against Defendant and all those acting in concert with
21 Defendant, from making, using, selling, or offering to sell the Accused Product and all colorable
22 imitations thereof;

23 ///

24 ///

1 C. A permanent injunction against Defendant and all those acting in concert with
2 Defendant, from making, using, selling, or offering to sell the Accused Product and all colorable
3 imitations thereof;

4 D. A finding that this case is exceptional and an award to Plaintiffs of its costs and
5 reasonable attorneys' fees, as provided by 35 U.S.C. § 285; and

6 E. Such further and additional relief this Court deems just and proper under the
7 circumstances.

8 DATED this 26th day of February, 2021.

9
10 **HOLLEY DRIGGS**

11 /s/ Joanna M. Myers

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23 *Attorneys for Plaintiff Power Probe Group, Inc. and*
24 *Power Probe TeK, LLC*

INDEX OF EXHIBITS

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
1.	U.S. Patent No. 7,184,899
2.	Secretary of State Business Record for Innova Electronics Corporation
3.	Screenshot of Innova Electronics' "About Us" webpage located at https://www.innova.com/home/about-us , last visited 01/22/2021
4.	Screenshot of Innova Electronics' "5420 PowerCheck" webpage located at https://www.innova.com/product/detail/5420/PowerCheck , last visited 01/22/2021
5.	Screenshot of Innova Electronics' "Find in Store" webpage located at https://www.innova.com/home/find-in-store , last visited 1/22/2021
6.	Assignment Abstract of Title for U.S. Patent No. 7,184,899
7.	Patent Maintenance Fee Record for U.S. Patent No. 7,184,899
8.	Power Probe Product Catalog
9.	Power Probe Instruction Manual
10.	Power Probe 3EZ Manual
11.	Power Probe IV Users Manual
12.	Power Probe Hook Operations Manual
13.	Power Probe Pro Series The Maestro Operations Manual
14.	Screenshot of Innova Electronics' "Innova Launches 5420 Power Check Circuit Tester" webpage located at https://www.autoserviceprofessional.com/articles/8600-innova-launches-5420-power-check-circuit-tester , last visited 01/22/2021
15.	Screenshot of After Market News' webpage featuring Innova Electronics' 5420 Power Check located at https://www.aftermarketnews.com/innova-introduces-powered-circuit-tester , last visited 01/22/2021
16.	Innova Electronics' Power Check 5420 Quick Start Guide
17.	Screenshot of Innova Electronics' "Support" webpage located at https://www.innova.com/support

18. Screenshot of AutoZone webpage listing of Nevada locations offering Innova Electronics' Accused Product for sale located at https://autozone.com/test-scan-and-specialty-tools/circuit-tester/innova-circuit-tester/1056640_0_0, last visited 01/26/2021
19. Screenshot of webpage listing O'Reilly Auto Parts locations in Las Vegas, Nevada located at <https://www.oreillyauto.com/locations/nv/las-vegas>, last visited 02/8/2021
20. Screenshot of webpage listing Napa Nevada locations offering Innova Electronics' Accused Product for sale located at https://napaonline.com/en/p/BK_7000121, last visited 01/26/2021
21. Screenshot of Innova Electronics' Order Summary offering to ship Accused Product to Nevada dated 01/25/2021
22. Screenshot of webpage offering Power Probe 3 for sale available at <https://www.pp-tek.com/store/product/power-probe-3/>, last visited 01/25/2021
23. Innova Electronics' Packing Slip for the Accused Product dated 01/26/2021